

US AIRWAYS, INC.,

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Plaintiff,

-against-

SABRE HOLDINGS CORP., et al.,

Defendants.

LORNA G. SCHOFIELD, District Judge:

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11 Civ. 2725 (LGS)

ORDER

WHEREAS, Defendants (“Sabre”) moves to exclude at the scheduled jury trial certain proposed testimony of Plaintiff’s (“US Airways”) expert, Louis Dudney, pursuant to Federal Rule of Evidence 702. Sabre seeks to bar Dudney’s testimony because: (i) he is not qualified to opine on an assessment of economic profit, and (ii) Dr. Abrantes-Metz’s use of certain accounting data in her assessment of economic profits does not qualify Dudney to opine on whether she applied that data correctly. These arguments are unpersuasive.

Sabre does not argue that Dudney is unqualified to testify as an accounting expert -- nor does Sabre contend that Dudney's opinions are the result of unreliable data or methods. *See* Fed. R. Evid. 702(c). Sabre solely objects to Dudney as unqualified to opine on whether goodwill and intangible assets should be treated as part of an *economic assessment* of the profits a company would expect in a competitive market because "[h]e is an accountant, not an economist." But Dudley's proposed testimony will explain, from an accounting perspective, why the \$3.5 billion in goodwill at issue should not be included in the economic profits calculation.


Permitting Dudney’s testimony also is consistent with the Court’s prior decision in advance of the 2016 trial. In 2016, US Airways offered Professor Zimmerman as an accounting expert to opine on “economic value added,” and Sabre moved to exclude Professor Zimmerman’s testimony. This Court denied Sabre’s motion, concluding that “Zimmerman is undisputedly an

accounting expert” offering a “well-established methodology for measuring economic profits,” and whether his exclusion of goodwill was proper was “a question for the jury and goes to the weight, not the admissibility of his opinion.” The same result is warranted as to Dudley’s proposed testimony.

It is hereby **ORDERED** that Sabre’s motion to exclude at trial certain testimony from US Airways’ expert, Louis Dudney, is denied.

The Clerk of Court is directed to close the motion at Dkt. No. 1090.

Dated: April 1, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE